

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Energy and Environmental Affairs, to which was referred House Bill No. 1589, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-23-5.5-6, AS AMENDED BY P.L.204-2007,
- 4 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2009]: Sec. 6. (a) The board shall do the following:
- 6 (1) Adopt procedures for the regulation of its affairs and the
- 7 conduct of its business.
- 8 (2) Meet at the offices of the division on call of:
- 9 (A) the lieutenant governor or the lieutenant governor's
- 10 designee; or
- 11 (B) the commissioner of the department of environmental
- 12 management or the commissioner's designee;
- 13 at least once each calendar quarter. The meetings shall be upon
- 14 ten (10) days written notification, shall be open to the public, and
- 15 shall have official minutes recorded for public scrutiny.
- 16 (3) Report annually in an electronic format under IC 5-14-6 to the
- 17 legislative council the projects in which it has participated and is
- 18 currently participating with a complete list of expenditures for
- 19 those projects.

(4) Annually prepare an administrative budget for review by the budget agency and the budget committee.

(5) Keep proper records of accounts and make an annual report of its condition to the state board of accounts.

(6) Receive petitions and make determinations under IC 13-20.5-2-2.

(b) The board shall consider projects involving the creation of the following:

(1) Markets for products made from recycled materials.

(2) New products made from recycled materials.

(c) The board may promote, fund, and encourage programs facilitating the development and implementation of waste reduction, reuse, and recycling in Indiana.

SECTION 2. IC 4-23-5.5-14, AS AMENDED BY P.L.170-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) The Indiana recycling promotion and assistance fund is established. The purpose of the fund is to promote and assist recycling throughout Indiana by focusing economic development efforts on businesses and projects involving recycling. The fund shall be administered by the board.

(b) Sources of money for the fund consist of the following:

(1) Appropriations from the general assembly.

(2) Repayment proceeds of loans made from the fund.

(3) Gifts and donations.

(4) Money from the solid waste management fund.

(5) Variable recycling fee revenue deposited under IC 13-20.5-2-1.

(c) Money remaining in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The board may use money in the fund to make loans to assist:

(1) persons in establishing new recycling businesses;

(2) in the expansion of existing recycling businesses; and

(3) manufacturers in retrofitting equipment necessary to reuse or recycle secondary materials.

(e) The board shall establish loan:

(1) amounts;

(2) terms; and

(3) interest rates.

1 (f) The board may use money in the fund to make grants for research
 2 and development projects involving recycling. The board shall
 3 establish amounts for grants.

4 (g) A person, business, or manufacturer that wants a grant or loan
 5 from the fund must file an application with the board.

6 (h) The board shall establish criteria for awarding grants and loans
 7 under this section.

8 (i) The board may transfer money in the fund to the state solid waste
 9 management fund established by IC 13-20-22-2 for use by the
 10 department of environmental management to make payments under
 11 IC 13-20-17.7-6."

12 Page 1, line 5, delete "used" and insert "**designed**".

13 Page 1, line 10, delete "households." and insert "**covered entities**".

14 Page 1, line 15, after "31.2." insert "**(a)**".

15 Page 2, line 1, delete "households;" and insert "**covered entities**";

16 Page 2, line 5, after "from" insert "**covered entities, including**
 17 **curbside collection**."

18 **(b) The term does not include:**

19 **(1) the United States Postal Service; or**

20 **(2) any other parcel service;**

21 **that accepts packages and delivers them to collectors or recyclers**
 22 **under a manufacturer's mailback program."**

23 Page 2, delete line 6.

24 Page 2, line 14, delete "an automated typewriter or" and insert "**the**
 25 **following:**

26 **(1) An automated typewriter or typesetter.**

27 **(2) A portable handheld calculator or device."**

28 Page 2, delete lines 15 through 16.

29 Page 2, line 31, delete "household" and insert "**covered entity**".

30 Page 2, between lines 32 and 33, begin a new paragraph and insert:

31 "SECTION 9. IC 13-11-2-47.7 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2009]: **Sec. 47.7. "Covered entity", for**
 34 **purposes of this chapter and IC 13-20.5, means the following:**

35 **(1) A household.**

36 **(2) A public school.**

37 **(3) A small business."**

38 Page 3, line 1, after "purposes" insert "**of section 47.7 of this**".

- 1 Page 3, delete line 2.
- 2 Page 3, run in lines 1 through 3.
- 3 Page 3, line 5, delete "." and insert "**or home office use.**".
- 4 Page 5, line 22, delete "July 1" and insert "**April 1**".
- 5 Page 5, line 23, delete "June 30" and insert "**March 31**".
- 6 Page 5, between lines 23 and 24, begin a new paragraph and insert:
- 7 "SECTION 17. IC 13-11-2-176.5, AS AMENDED BY P.L.1-2005,
- 8 SECTION 142, IS AMENDED TO READ AS FOLLOWS
- 9 [EFFECTIVE JULY 1, 2009]: Sec. 176.5. (a) "Public school", for
- 10 purposes of IC 13-20-17.5, has the meaning set forth in IC 20-18-2-15.
- 11 (b) "**Public school**", for purposes of section 47.7 of this chapter
- 12 means:
- 13 (1) a public school (as defined in IC 20-18-2-15); and
- 14 (2) a charter school (as defined in IC 20-24-1-4).".
- 15 Page 5, line 29, delete "households" and insert "**covered entities**".
- 16 Page 6, line 9, delete "households" and insert "**covered entities**".
- 17 Page 6, line 13, delete "result of:" and insert "**product of:**
- 18 (1) the remainder for a manufacturer's program year of:
- 19 (A) the amount of covered electronic devices the
- 20 manufacturer recycled, or for which the manufacturer
- 21 arranged for recycling; minus
- 22 (B) the amount the manufacturer is required to recycle or
- 23 arrange for recycling determined under IC 13-20.5-4-1;
- 24 multiplied by
- 25 (2) twenty-five percent (25%).".
- 26 Page 6, delete lines 14 through 21.
- 27 Page 6, line 31, delete "household" and insert "**covered entity**".
- 28 Page 7, between lines 2 and 3, begin a new paragraph and insert:
- 29 "SECTION 22. IC 13-11-2-203.5 IS ADDED TO THE INDIANA
- 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 31 [EFFECTIVE JULY 1, 2009]: Sec. 203.5. (a) Except as provided in
- 32 subsection (b), "**small business**", for purposes of section 47.7 of this
- 33 chapter, means a business that satisfies all the following:
- 34 (1) The business is independently owned and operated.
- 35 (2) The principal office of the business is located in Indiana.
- 36 (3) The business satisfies either of the following:
- 37 (A) The business has not more than:
- 38 (i) one hundred (100) employees; and

1 (ii) average annual gross receipts of ten million dollars
2 (\$10,000,000).

3 **(B) If the business is a manufacturing business, the**
4 **business does not have more than one hundred (100)**
5 **employees.**

6 **(b) "Small business" does not include a business subject to**
7 **electronic waste regulation under 329 IAC 16-3-1."**

8 Page 7, line 20, delete "households." and insert "**covered entities**".

9 Page 8, delete lines 4 through 42, begin a new line block indented
10 and insert:

11 **"(4) Either of the following that does not contain a video**
12 **display area greater than nine (9) inches measured**
13 **diagonally:**

14 **(A) A telephone.**

15 **(B) A device capable of using commercial mobile radio**
16 **service (as defined in 47 CFR 20.3).**

17 SECTION 24. IC 13-13-7-9, AS ADDED BY P.L.12-2005,
18 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2009]: Sec. 9. The council shall do the following:

20 (1) Study:

21 **(A) issues designated by the legislative council; and**

22 **(B) the following in 2012:**

23 **(i) The effectiveness of the electronic waste provisions of**
24 **IC 13-20.5.**

25 **(ii) Appropriate guidelines for the Indiana recycling**
26 **market development board for determining under**
27 **IC 13-20.5-2-2 whether a manufacturer has made good**
28 **faith progress to achieve substantial compliance with**
29 **IC 13-20.5.**

30 (2) Advise the commissioner on policy issues decided on by the
31 council.

32 (3) Review the mission and goals of the department and evaluate
33 the implementation of the mission.

34 (4) Serve as a council of the general assembly to evaluate:

35 (A) resources and structural capabilities of the department to
36 meet the department's priorities; and

37 (B) program requirements and resource requirements for the
38 department.

(5) Serve as a forum for citizens, the regulated community, and legislators to discuss broad policy directions.

(6) Submit a final report to the legislative council, in an electronic format under IC 5-14-6, that contains at least the following:

(A) An outline of activities of the council.

(B) Recommendations for department action.

(C) Recommendations for legislative action.

SECTION 25. IC 13-20.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

ARTICLE 20.5. ELECTRONIC WASTE

Chapter 1. Registration Programs

Sec. 1. (a) A manufacturer of video display devices sold or offered for sale to households as of January 1, 2010, shall submit a registration to the department not later than:

(1) April 1, 2010, for the program year that begins on April 1, 2010; and

(2) each immediately succeeding April 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that April 1.

(b) A manufacturer that begins to sell or offer for sale video display devices to households after 2009 and before April 1, 2010, shall submit a registration to the department not later than:

(1) April 20, 2010, for the program year that begins on April 1, 2010; and

(2) each immediately succeeding April 1 on which the manufacturer continues as a manufacturer of video display devices sold or offered for sale to households for the program year that begins on that April 1.

(c) A manufacturer that begins to sell or offer for sale video display devices to households after March 31, 2010, shall submit a registration to the department not later than:

(1) twenty (20) days after the date the manufacturer begins to sell or offer for sale the video display devices for the program year in which the manufacturer begins to sell or offer for sale the video display devices; and

(2) each immediately succeeding April 1 on which the

1 manufacturer continues as a manufacturer of video display
2 devices sold or offered for sale to households for the program
3 year that begins on that April 1.

4 (d) A registration submitted under this section must include the
5 following:

6 (1) A list of the brands of video display devices offered for sale
7 in Indiana by the manufacturer, regardless of whether the
8 manufacturer owns or licenses the brand.

9 (2) The name, address, and contact information of a person
10 responsible for ensuring compliance with this article. The
11 department shall post the contact information provided by
12 each manufacturer on an Internet web site.

13 (3) A certification that the manufacturer or the
14 manufacturer's agent has complied and will continue to
15 comply with the requirements of this article.

16 (4) An estimate based on national sales data of the total
17 weight in pounds of the manufacturer's video display devices
18 sold to households during the most recent twelve (12) months:

19 (A) that precede the date of registration; and

20 (B) for which that data is available.

21 (5) A demonstration of how the manufacturer plans in the
22 program year for which the registration is submitted to meet
23 the recycling goal stated in IC 13-20.5-4-1.

24 (6) A statement that discloses whether:

25 (A) any video display devices sold by the manufacturer to
26 households exceed the maximum concentration values
27 established:

28 (i) for lead, mercury, cadmium, hexavalent chromium,
29 polybrominated biphenyls (pbbs), and polybrominated
30 diphenyl ethers (pbdes); and

31 (ii) under the directive restricting the use of certain
32 hazardous substances in electrical and electronic
33 equipment (RoHS Directive) 2002/95/EC of the
34 European Parliament and Council, as amended; or

35 (B) the manufacturer has received an exemption from any
36 of the maximum concentration values under the RoHS
37 Directive that has been approved and published by the
38 European Commission.

1 (e) A manufacturer shall update the manufacturer's registration
2 under this section not more than ten (10) days after the date the
3 manufacturer changes the brand or brands of video display devices
4 the manufacturer sells or offers for sale to households.

5 Sec. 2. After 2009, a manufacturer may not sell, offer for sale,
6 or deliver to a retailer for subsequent sale a new video display
7 device unless:

8 (1) the video display device is labeled with the manufacturer's
9 brand that is permanently affixed and readily visible; and

10 (2) the manufacturer has submitted a registration to the
11 department under section 1 of this chapter.

12 Sec. 3. (a) A registration received from a manufacturer by the
13 department under this chapter is, except as provided in subsection
14 (b), effective for the program year for which the registration is
15 submitted under section 1 of this chapter.

16 (b) The department shall review each registration and notify a
17 manufacturer of any information required by this chapter that is
18 omitted from the manufacturer's registration. Not more than
19 thirty (30) days after the date a manufacturer receives notification
20 from the department concerning incomplete information in the
21 manufacturer's registration, the manufacturer shall submit a
22 revised registration that includes the information required by the
23 department. A registration received from a manufacturer by the
24 department under this subsection is, unless the manufacturer
25 receives a second or subsequent notification from the department
26 concerning incomplete information, effective for the program year
27 for which the registration is submitted under section 1 of this
28 chapter.

29 (c) The department shall maintain on an Internet web site the
30 names of manufacturers and the manufacturers' brands listed in
31 registrations submitted to the department. The department shall
32 update the Internet web site information promptly upon receipt of
33 a new or updated registration. The Internet web site must contain
34 prominent language stating that:

35 (1) this article is directed at video display devices used by
36 households; and

37 (2) the manufacturers' brands list is not a list of
38 manufacturers qualified to sell to industrial, commercial, or

1 other markets identified as exempt from the requirements of
2 this article.

3 **Sec. 4. (a) After 2009, a person may not operate as a collector of**
4 **covered electronic devices from covered entities unless the person:**

- 5 (1) has submitted to the department a completed registration
- 6 form as required by 329 IAC 16-5-1; and
- 7 (2) otherwise complies with 329 IAC 16.

8 **(b) A registration submitted under this section is:**

- 9 (1) effective upon receipt by the department; and
- 10 (2) valid for one (1) year from the date the registration is
- 11 submitted to the department.

12 **Sec. 5. (a) After 2009, a person may not recycle covered**
13 **electronic devices generated by covered entities unless the person:**

- 14 (1) has submitted to the department a completed registration
- 15 form as required by 329 IAC 16-5-1; and
- 16 (2) otherwise complies with 329 IAC 16.

17 **(b) A registered recycler may conduct recycling activities that**
18 **are consistent with this article.**

19 **(c) A registration submitted under this section is:**

- 20 (1) effective upon receipt by the department; and
- 21 (2) valid for one (1) year from the date the registration is
- 22 submitted to the department.

23 **Sec. 6. The department may revoke the registration of a**
24 **collector or recycler that violates either or both of the following:**

- 25 (1) This article.
- 26 (2) 329 IAC 16.

27 **Chapter 2. Manufacturer's Registration Fee; Electronic Waste**
28 **Fund**

29 **Sec. 1. (a) Except as provided in subsection (g), a manufacturer**
30 **that registers under IC 13-20.5-1 shall pay to the department at the**
31 **time of registration an annual registration fee. The registration fee**
32 **applies for the program year for which the registration is**
33 **submitted to the department. The department shall deposit the fee**
34 **in the electronic waste fund established by section 3 of this chapter.**

35 **(b) The registration fee for the initial program year to which the**
36 **fee applies under subsection (a) is five thousand dollars (\$5,000).**
37 **For each program year thereafter, the registration fee is equal to**
38 **two thousand five hundred dollars (\$2,500).**

(c) In addition to the registration fee under subsection (a), a manufacturer that registers under IC 13-20.5-1 and fails to meet the recycling goal under IC 13-20.5-4-1 is subject to a variable recycling fee for each program year that ends on March 31 of 2013 or of a later year. Not later than September 1, the department shall provide a statement to each manufacturer liable for the variable recycling fee that states at least the following:

(1) The amount of the fee determined under subsection (d).

(2) The method of calculation of the fee.

(3) The due date of the fee.

(4) The opportunity to petition under section 2 of this chapter.

The department shall deposit the fee in the Indiana recycling promotion and assistance fund established by IC 4-23-5.5-14.

(d) The amount of the variable recycling fee, if applicable, is the amount determined in STEP FOUR of the following formula:

STEP ONE: Multiply the number of pounds of the manufacturer's video display devices sold to households during the immediately preceding program year, as reported in the manufacturer's registration for the program year under IC 13-20.5-1-1(d)(4), by the proportion of sales of video display devices required to be recycled under IC 13-20.5-4-1.

STEP TWO: Subject to subsection (e), add the number of pounds of covered electronic devices recycled by the manufacturer from covered entities during the immediately preceding program year, as reported to the department under IC 13-20.5-3-1(b), to the number of recycling credits the manufacturer elects to use to calculate the variable recycling fee, as reported to the department under IC 13-20.5-3-1(c)(2).

STEP THREE: Subtract the number of pounds determined in STEP TWO from the number of pounds determined in STEP ONE.

STEP FOUR: Multiply the greater of zero (0) or the number of pounds determined in STEP THREE by the per pound cost of recycling established as follows:

(A) Forty cents (\$0.40) per pound for manufacturers that recycle less than fifty percent (50%) of the number of pounds determined in STEP ONE.

(B) Thirty cents (\$0.30) per pound for manufacturers that

1 recycle at least fifty percent (50%) but less than ninety
2 percent (90%) of the number of pounds determined in
3 STEP ONE.

4 (C) Twenty cents (\$0.20) per pound for manufacturers that
5 recycle at least ninety percent (90%) of the number of
6 pounds determined in STEP ONE.

7 (e) The following apply to the number of pounds of covered
8 electronic devices recycled by the manufacturer from covered
9 entities during the immediately preceding program year for
10 purposes of subsection (d), STEP TWO:

11 (1) Except as provided in subdivision (3), the number is
12 multiplied by one and one-tenth (1.1) to the extent that the
13 covered electronic devices were recycled in Indiana.

14 (2) Except as provided in subdivision (3), the number is
15 multiplied by one and five-tenths (1.5) to the extent that the
16 covered electronic devices were recycled from covered entities
17 not located in a metropolitan statistical area, as defined by the
18 federal Office of Management and Budget.

19 (3) The number is multiplied by one and six-tenths (1.6) to the
20 extent that the covered electronic devices were:

21 (A) recycled from covered entities not located in a
22 metropolitan statistical area, as defined by the federal
23 Office of Management and Budget; and

24 (B) recycled in Indiana.

25 (f) A manufacturer may retain recycling credits to be added, in
26 whole or in part, to the actual number of pounds of covered
27 electronic devices recycled by the manufacturer from covered
28 entities during the immediately preceding program year, as
29 reported to the department under IC 13-20.5-3-1(b), during any of
30 the three (3) immediately succeeding program years. A
31 manufacturer may sell all or any part of its recycling credits to
32 another manufacturer, at a price negotiated by the parties, and the
33 other manufacturer may use the credits in the same manner. For
34 purposes of this subsection, the recycling credits for the program
35 year that begins April 1, 2010, are determined taking into account
36 covered electronic devices that the manufacturer recycled, or
37 arranged to have collected and recycled, both:

38 (1) in that program year; and

1 (2) after June 30, 2009, and before April 1, 2010.

2 (g) A manufacturer may not be charged a registration fee or a
3 variable recycling fee for any year in which the combined number
4 of video display devices produced by the manufacturer for sale to
5 households is less than one hundred (100).

6 Sec. 2. Not later than sixty (60) days after the date of the
7 statement provided to a manufacturer under section 1(c) of this
8 chapter, the manufacturer may petition the Indiana recycling
9 market development board created by IC 4-23-5.5-2 for relief from
10 the variable recycling fee imposed under section 1 of this chapter
11 upon showing of good cause. In determining whether to grant a
12 petition for relief under this section, the Indiana recycling market
13 development board shall determine whether the manufacturer has
14 made good faith progress to achieve substantial compliance with
15 this article. A determination by the Indiana recycling market
16 development board under this subsection is not subject to appeal
17 by the manufacturer.

18 Sec. 3. (a) The electronic waste fund is established to implement
19 this article. The fund shall be administered by the department.

20 (b) The expenses of administering the fund shall be paid from
21 money in the fund.

22 (c) The treasurer of state shall invest the money in the fund not
23 currently needed to meet the obligations of the fund in the same
24 manner as other public money may be invested. Interest that
25 accrues from these investments shall be deposited in the fund.

26 (d) Money in the fund at the end of a state fiscal year does not
27 revert to the state general fund.

28 (e) Beginning in 2011 and continuing each year thereafter, as of
29 the last day of the state fiscal year, the department shall determine
30 the total amount of the variable recycling fees that were collected
31 for that state fiscal year under section 1(c) of this chapter.

32 (f) Except as provided in subsection (g), if the total amount of
33 registration fees collected by the department for a state fiscal year
34 under section 1(a) of this chapter exceeds the amount the
35 department determines necessary to administer this article for the
36 next state fiscal year, the department shall refund on a pro rata
37 basis, to all manufacturers that paid any fees for the state fiscal
38 year that contributed to those collections, the amount of fees

1 collected by the department that exceeds the amount necessary to
2 administer this article for the next state fiscal year.

3 (g) The department is not required to refund amounts under
4 subsection (f) if either or both of the following apply:

5 (1) The refund amount determined under subsection (f) is less
6 than one hundred dollars (\$100).

7 (2) The amount the manufacturer claiming the refund
8 recycled for the manufacturer's most recent program year
9 was less than fifty percent (50%) of the amount the
10 manufacturer was required to recycle for that program year
11 under IC 13-20.5-4-1.

12 Chapter 3. Reporting Requirements

13 Sec. 1. (a) Not later than June 1 of 2011 and of each immediately
14 succeeding year, a manufacturer shall report to the department an
15 estimate of the total weight in pounds of its video display devices
16 sold to households during the program year that ends on the
17 immediately preceding March 31 based on national sales data. A
18 manufacturer shall submit with an estimate under this subsection
19 a description of how the information or estimate was calculated.

20 (b) Not later than June 1 of 2011 and of each immediately
21 succeeding year, a manufacturer shall report to the department the
22 total weight in pounds of covered electronic devices the
23 manufacturer:

24 (1) collected from eligible entities and recycled; or

25 (2) arranged to have collected from eligible entities and
26 recycled;

27 during the program year that ends on the immediately preceding
28 March 31.

29 (c) Not later than June 1 of 2011 and of each immediately
30 succeeding year, a manufacturer shall report the following to the
31 department:

32 (1) The number of recycling credits the manufacturer has
33 purchased and sold during the program year that ends on the
34 immediately preceding March 31.

35 (2) The number of recycling credits possessed by the
36 manufacturer that the manufacturer intends to use in the
37 calculation of its variable recycling fee under IC 13-20.5-2-1.

38 (3) The number of recycling credits the manufacturer retains

1 at the beginning of the current program year.

2 (4) The amount in pounds of covered electronic devices the
3 manufacturer arranged for a recycler to collect and recycle
4 that were not converted to recycling credits.

5 Sec. 2. Before April 1, 2011, and before each April 1 thereafter,
6 a recycler of covered electronic devices shall do the following:

7 (1) Report to the department separately the total weight in
8 pounds of covered electronic devices:

9 (A) recycled by the recycler; and

10 (B) taken by the recycler for final disposal;

11 during the immediately preceding calendar year.

12 (2) Certify that the recycler has complied with IC 13-20.5-5
13 and 329 IAC 16.

14 Sec. 3. Before April 1, 2011, and before each April 1 thereafter,
15 a collector shall submit to the department a report that contains
16 for the immediately preceding calendar year:

17 (1) the total weight in pounds of covered electronic devices
18 collected in Indiana by the collector; and

19 (2) a list of all recyclers to whom the collector delivered
20 covered electronic devices.

21 Chapter 4. Manufacturer Responsibilities

22 Sec. 1. A manufacturer shall in each of the manufacturer's
23 program years recycle or arrange for the collection and recycling
24 from covered entities of an amount of covered electronic devices
25 equal to at least sixty percent (60%) of the total weight of the
26 manufacturer's video display devices sold to households as
27 reported in the manufacturer's registration for the program year
28 under IC 13-20.5-1-1(d)(4).

29 Sec. 2. (a) A manufacturer shall conduct and document due
30 diligence assessments of collectors and recyclers with which the
31 manufacturer contracts to allow the manufacturer to comply with
32 this chapter.

33 (b) A manufacturer shall maintain for three (3) years
34 documentation showing that all covered electronic devices
35 recycled, partially recycled, or sent to downstream recycling
36 operations by the manufacturer are recycled in compliance with
37 this article.

38 Sec. 3. A manufacturer shall provide the department with

1 contact information for an individual who can be contacted
2 regarding the manufacturer's activities under this article.

3 Chapter 5. Recycler Responsibilities

4 Sec. 1. Except to the extent otherwise required by law, a recycler
5 is not responsible for any data that may be contained in a covered
6 electronic device recycled by the recycler if an information storage
7 device is included in the covered electronic device.

8 Chapter 6. Retailer Responsibilities

9 Sec. 1. A retailer that sells new video display devices shall
10 provide information to households that:

11 (1) describes where and how households may recycle video
12 display devices; and

13 (2) advises households of opportunities and locations for the
14 convenient collection of video display devices for recycling.

15 Sec. 2. The requirement in section 1 of this chapter may be met
16 by retailers:

17 (1) by providing to households the department's contact
18 information or Internet web site address; and

19 (2) if the retailer sells through catalogs or the Internet, by
20 including the information in a prominent location in the
21 retailer's catalog or on the retailer's Internet web site.

22 Chapter 7. Department Duties

23 Sec. 1. (a) The department shall:

24 (1) subject to subsection (b), adopt forms for use by
25 manufacturers, collectors, and recyclers for all registration
26 statements, certifications, and reports required by this article;
27 and

28 (2) establish procedures for:

29 (A) receipt and maintenance of the registration statements
30 and certifications filed with the department under
31 IC 13-20.5-1; and

32 (B) making the statements and certifications easily
33 available to manufacturers, retailers, and the public.

34 (b) The department is not required to adopt forms under
35 subsection (a) by rule.

36 Sec. 2. Before June 1, 2010, and before June 1 of each year
37 thereafter, the department shall calculate estimated sales of video
38 display devices sold to households by each manufacturer during

1 the immediately preceding calendar year, based on national sales
2 data.

3 Sec. 3. If the revenues in the electronic waste fund established
4 by IC 13-20.5-2-3 exceed the amount that the department
5 determines is necessary for efficient and effective administration
6 of this article, the department shall recommend to the general
7 assembly in a report submitted in an electronic format under
8 IC 5-14-6 that:

- 9 (1) the registration fee under IC 13-20.5-2-1(a); or
- 10 (2) the proportion of sales of video display devices required to
11 be recycled under IC 13-20.5-4-1;
- 12 be lowered to reduce revenues collected in the subsequent state
13 fiscal year by the estimated amount of the excess.

14 Sec. 4. (a) Before August 1, 2013, and before August 1 of each
15 year thereafter, the department shall submit a report concerning
16 the implementation of this article to:

- 17 (1) the general assembly in an electronic format under
18 IC 5-14-6;
- 19 (2) the governor;
- 20 (3) the environmental quality service council established by
21 IC 13-13-7-1; and
- 22 (4) the Indiana recycling market development board
23 established by IC 4-23-5.5-2.

24 (b) For each state fiscal year, the report submitted under
25 subsection (a):

- 26 (1) must discuss the total weight of covered electronic devices
27 recycled in the state fiscal year and a summary of information
28 in the reports submitted by manufacturers and recyclers
29 under IC 13-20.5-3;
- 30 (2) must discuss the various collection programs used by
31 manufacturers to collect covered electronic devices,
32 information regarding covered electronic devices that are
33 being collected by persons other than registered
34 manufacturers, collectors, and recyclers, and information
35 about covered electronic devices, if any, being disposed of in
36 landfills in Indiana;
- 37 (3) must include a description of enforcement actions under
38 this article during the state fiscal year; and

1 (4) may include other information received by the department
2 regarding the implementation of this article.

3 **Sec. 5.** The department shall promote public participation in the
4 activities implemented under this article through public education
5 and outreach efforts.

6 **Sec. 6. (a)** The department shall collect the data submitted to it
7 annually by each registered manufacturer on:

8 (1) the total weight in pounds of each specific model of video
9 display device sold to households, if provided;

10 (2) the total weight in pounds of video display devices sold to
11 households;

12 (3) the total weight in pounds of covered electronic devices
13 collected from covered entities that are recycled; and

14 (4) data on recycling credits, as required under
15 IC 13-20.5-3-1.

16 **(b)** The department shall use the data described in subsection (a)
17 to determine the manufacturer's variable recycling fee under the
18 formula in IC 13-20.5-2-1.

19 **Sec. 7.** The department shall estimate, for each registered
20 manufacturer, the sales of video display devices to households
21 during each calendar year, based on:

22 (1) data provided by a manufacturer on sales of video display
23 devices to households, including documentation describing
24 how that amount was calculated and certification that the
25 amount is accurate; or

26 (2) if a manufacturer does not provide the data specified in
27 subdivision (1), national data on sales of video display devices.

28 The department shall use the data specified in this section to review
29 the determination of each manufacturer's variable recycling fee to
30 ensure that the fee was calculated accurately according to the
31 formula in IC 13-20.5-2-1.

32 **Sec. 8.** The department may participate in or join a regional
33 multistate organization or compact to assist in implementing this
34 article.

35 **Sec. 9.** If a national electronic waste program is implemented
36 that is similar to the program established under this article, the
37 department shall review, evaluate, and compare the national
38 program, the program established under this article, and any

1 regional agreement the department has entered into under section
2 8 of this chapter.

3 Chapter 8. Other Recycling Programs

4 Sec. 1. A city, a county, or any other governmental entity may
5 not require a covered entity to use public facilities to recycle the
6 covered entity's covered electronic devices to the exclusion of other
7 lawful recycling programs available.

8 Sec. 2. This article does not prohibit or restrict:

9 (1) the operation of any program that recycles covered
10 electronic devices in addition to programs provided by
11 manufacturers;

12 (2) persons from receiving, collecting, transporting, or
13 recycling covered electronic devices, if those persons are
14 registered under IC 13-20.5-1; or

15 (3) a collector, recycler, or manufacturer from charging for
16 directly collecting any covered electronic devices directly
17 from covered entities, including charging for curbside
18 collection from covered entities.

19 Chapter 9. Requirements for Purchases by State Agencies

20 Sec. 1. The Indiana department of administration shall ensure
21 that acquisitions of video display devices by state agencies comply
22 with or are not subject to this article.

23 Sec. 2. State agency solicitation documents must specify that the
24 prospective responder is required to cooperate fully in providing
25 reasonable access to the prospective responder's records and
26 documents to demonstrate compliance with this article.

27 Sec. 3. A person awarded a contract by a state agency for
28 purchase or lease of video display devices that is found to be in
29 violation of this article is subject to the following sanctions:

30 (1) The contract is void if the Indiana department of
31 administration determines that the potential adverse effect to
32 the state from voiding the contract is exceeded by the benefit
33 obtained from voiding the contract.

34 (2) If the attorney general establishes that any money,
35 property, or benefit was obtained by a contractor as a result
36 of violating this article, a court may, in addition to any other
37 remedy, order the forfeiture of the unlawfully obtained
38 money, property, or benefit.

1 **Chapter 10. Disposal Prohibitions**
 2 **Sec. 1. After 2010, a covered entity may not knowingly do any**
 3 **of the following:**
 4 **(1) Mix or allow the mixing of a covered electronic device or**
 5 **any other computer, computer monitor, printer, or television**
 6 **with municipal waste that is intended for disposal at a landfill.**
 7 **(2) Mix or allow the mixing of a covered electronic device or**
 8 **any other computer, computer monitor, printer, or television**
 9 **with any waste that is intended for disposal by burning or**
 10 **incineration.**
 11 **Sec. 2. (a) A covered entity that violates this chapter is not**
 12 **subject to:**
 13 **(1) a criminal or civil action or penalty; or**
 14 **(2) any other sanction;**
 15 **under this title or any other state law.**
 16 **(b) A violation of this chapter does not create a cause of action."**
 17 Delete pages 9 through 18.
 18 Renumber all SECTIONS consecutively.
 (Reference is to HB 1589 as printed February 17, 2009.)

and when so amended that said bill do pass.

Committee Vote: Yeas 9, Nays 0.

Gard

Chairperson